

§ 2411.11

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of that determination under 5 U.S.C. 552(a)(4). Even though no appeal is filed from a denial in whole or in part of a request for records by the person making the request, the Chairman of the Authority, the General Counsel or the Chairman of the Panel, as appropriate, may, without regard to the time limit for filing of an appeal, sua sponte initiate consideration of a denial under this appeal procedure by written notification to the person making the request. In such event the time limit for making the determination shall commence with the issuance of such notification.

§ 2411.11 Modification of time limits.

(a) In unusual circumstances as specified in this section, the time limits prescribed with respect to initial determinations or determinations on appeal may be extended by written notice from the agency component handling the request (either initial or on appeal) to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. As appropriate, the notice shall provide the requester with an opportunity to limit the scope of the request so that it may be processed within the time limit or an opportunity to arrange with the agency component an alternative time frame for processing the request or a modified request. To aid the requester, the FOIA Public Liaison shall assist in the resolution of any disputes between the requester and the processing agency component. No such notice shall specify a date that would result in a total extension of more than ten (10) working days.

(b) As used in this section, “unusual or exceptional circumstances” means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(c) Expedited processing of a request for records, or an appeal of a denial of a request for expedited processing, shall be provided when the requester demonstrates a compelling need for the information and in other cases as determined by the officer processing the request. A requester seeking expedited processing can demonstrate a compelling need by submitting a statement certified by the requester to be true and correct to the best of such person’s knowledge and belief and that satisfies the statutory and regulatory definitions of compelling need. Requesters shall be notified within ten (10) calendar days after receipt of such a request whether expedited processing, or an appeal of a denial of a request for expedited processing, was granted. As used in this section, “compelling need” means:

(1) That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

§ 2411.12 Effect of failure to meet time limits.

Failure by the Authority, the General Counsel, the Panel, or the IG either to deny or grant any request under this part within the time limits prescribed by the Freedom of Information Act, as amended, 5 U.S.C. 552, and these regulations shall be deemed to be an exhaustion of the administrative remedies available to the person making this request.

§ 2411.13 Fees.

(a) *Definitions.* For the purpose of this section:

(1) The term *direct costs* means those expenditures which the Authority, the